

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
July 18, 2005

D046645 Acosta v. Superior Court of Imperial County/People
The petition is denied.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
July 19, 2005

D043945 People v. Wilkerson

The judgment is affirmed. Nares, J.; I Concur: O'Rourke, J., I Concur and Dissent (by opinion): McDonald, J.

Court convened at 9 a.m.

Present: The Honorable Patricia Benke, Acting Presiding Justice, and The Honorable Associate Justices Cynthia Aaron and Joan Irion
Clerk: D. Moore

D045842 In re Adam I. et al., Juveniles

Cause called on merits. Suzanne Evans, Esq. argued for appellant. Kathleen M. Mallinger, Esq. argued for the minor. Gary Seiser, Deputy County Counsel argued for respondent. Ms. Evans replied. Cause submitted.

Court recessed at 9:34 a.m. to change panel members. New panel members: The Honorable Richard Huffman, Acting Presiding Justice, and The Honorable Associate Justices Judith Haller and Cynthia Aaron

D045948 Jeld-Wen Inc., et al. v. Superior Court/Keener et al.-RPI

Matter called on merits. Jeff G. Harmeyer, Esq. argued for petitioner. Alexandra Suzanne Ward, Esq. argued for real party in interest. Andrew John Zucker, Esq. was present in oral argument for real party in interest, but did not argue. Mr. Harmeyer replied. Matter submitted.

Court recessed at 10:31 a.m.

D046721 Gomez et al. v. The Drapery Shop Inc., et al.

The appellant having failed to timely pay the filing fee, the appeal is dismissed.

D046717 Linder et al. v. Cimarusti

The appellant having failed to timely pay the filing fee, the appeal is dismissed.

D045541 In re Sequoia W., a Juvenile

Judgment affirmed. Huffman, Acting P.J.; We Concur: McIntyre, J., Irion, J.

D046564 In re Washington on Habeas Corpus

The petition is denied.

D046109 In re Sequoia W., a Juvenile

The petition is denied.

D046641 Beatrice R. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency

The attorney for petitioner Beatrice R. has notified the court on behalf of the petitioner that a Petition for Writ of Mandate under rule 38.1 will not be filed. The case is dismissed.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
July 19, 2005 (Continued)

D046329 Oberg v. Marquez

Pursuant to California Rules of court, rule 8, the appeal filed on April 22, 2005, is dismissed for failure of appellant to timely deposit costs for preparing the record on appeal (Cal Rules of Court, rule 4(b) and 5(c)).

COURT OF APPEAL OF THE STATE OF CALIFORNIA
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DIVISION ONE
July 20, 2005

D046085 In re Erick R., a Juvenile

The appeal is dismissed. McDonald, J.; We Concur: McConnell, P.J., O'Rourke, J.

D045632 In re Hugo A., a Juvenile

The judgment is affirmed. Nares, J.; We Concur: McConnell, P.J., Aaron, J.

D043154 Brown Field Aviation Park, LLC v. PB Aviation, Inc.

The judgment is affirmed. Each party to bear its own costs. Nares, J.; We Concur: Benke, Acting P.J., McDonald, J.

D045006 People v. Higgins

The judgment is affirmed but for imposition of a three-year term in case No. SCD173065. The trial court shall amend the August 20, 2004 Mental Health Minutes - Criminal to reflect a two-year middle term in case No. SCD1730165 to run concurrent with the term in case No. SCD174627, and forward the amended minutes to the Department of Corrections. Huffman, J.; We Concur: McConnell, P.J., Irion, J.

D045713 In re Savannah M. et al., Juveniles

The orders are reversed and the matters are remanded with directions that the court vacate those orders and issue new orders: (1) finding Savannah and Sierra are not dependent children within its jurisdiction under section 300; (2) dismissing Agency's section 300 petitions as to those children; and (3) ordering those children discharged from any detention or placement theretofore ordered. McDonald, Acting P.J.; We Concur: McIntyre, J., O'Rourke, J.

D045155 Patterson et al. v. Salton Community Services District et al.

The order denying defendants' anti-SLAPP motion is affirmed. Plaintiffs' motion for sanctions is denied. Nares, J.; We Concur: Benke, Acting P.J., Aaron, J.

D044439 People v. Welch et al

The judgments are affirmed. Haller, J.; We Concur: Huffman Acting, P.J., O'Rourke, J.

D044395 People v. Poland

The judgment is affirmed. Nares, J.; We Concur: McConnell, P.J., Irion, J.

D042704 People v. Kennell et al.

Grlicky's judgment is affirmed. Kennell's judgment is affirmed. McDonald, J.; We Concur: Haller, Acting P.J., O'Rourke, J.

D045270 Hagen et al. v. La Jolla Bank

On June 1, 2005, this court granted appellant Greville Lacey, Ltd., leave to file a brief within 10 days if it complied with Rule 1, was represented by a licensed attorney and demonstrated its corporate powers, rights and privileges were in good standing. Greville Lacey, Ltd. has failed to comply with the order. The matter has been read and considered by Presiding Justice McConnell and Associate Justices McDonald and McIntyre. The appeal by Greville Lacey, Ltd. is DISMISSED.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
July 20, 2005

D045399 People v. Cea

The judgment is affirmed. Nares, J.; We Concur: McConnell, P.J., O'Rourke, J.

D045421 People v. Madkins

The judgment is affirmed. The trial court is directed to amend the sentencing minutes and the abstract of judgment by deleting the references to concurrent sentences and to forward the amended abstract to the Department of Corrections. McIntyre, J.; We Concur: Benke, Acting P.J., Aaron, J.

D045822 In re Christian H. et al., Juveniles

The judgment terminating parental rights is reversed. The court is directed to ensure that proper notice is given under the ICWA. If, after receiving notice, no tribe intervenes, the juvenile court shall reinstate the judgment. McConnell, P.J.; We Concur: Haller, J., O'Rourke, J.

D046276 In re Tara L., a Juvenile

The petition is denied. McDonald, J.; We Concur: McConnell, P.J., Aaron, J.

D045416 In re Origen on Habeas Corpus

The order is reversed. The stay issued on December 7, 2004, will be vacated when the opinion is final as to this court. McConnell, P.J.; We Concur: Nares, J., O'Rourke, J.

D043893 In re Jose M., a Juvenile

The jurisdictional and dispositional orders are affirmed. Benke, Acting P.J.; We Concur: Huffman, J., McDonald

D046286 Murphy v. Hammer

Upon written request filed by appellant, the appeal is dismissed and the remittitur is ordered to issue immediately (Cal. Rules of Court, rule 20(c)(2)).

D046640 Johnny R. et al. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency

The attorney for petitioner Miranda D. has notified the court on behalf of the petitioner that a Petition for Writ of Mandate under Rule 38.1 will not be filed as there are no viable issues for writ review. The case as to Miranda D. is dismissed.

D046004 In re Simonton on Habeas Corpus

Respondent is ordered to show cause why the relief requested by petitioner should not be granted.

In addition to the papers on file, respondent may file a return on or before September 9, 2005.

Petitioner may file a traverse within thirty days after the return is filed. Absent a request by the parties on or before September 30, 2005, Oral argument will be deemed waived.

The court requests the return and traverse include briefing on the following issue: whether the trial judge's alleged post-trial remarks to petitioner's mother require a reversal of petitioner's conviction.

Appellate Defenders is directed to submit, within ten days, a recommendation for counsel to represent petitioner in this matter. The Clerk of the Court is directed to provide Appellate Defenders copies of the briefing on file in this matter, along with a copy of this order.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
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July 21, 2005

D046766 In re Ayala on Habeas Corpus

The petition is denied without prejudice to refiling after sentencing and entry of a judgment of contempt.

D046805 Martinez v. Superior Court of San Diego County/People

The petition is denied.

D046566 In re Pough on Habeas Corpus

The petition is denied.

D046804 Francisco L., a Minor, etc., et al. v Superior Court of San Diego County/Salzetti

The petition is denied.

D044890 Angeles v. Loma Verde, Inc.

The judgment is affirmed. Loma Verde is entitled to recover its costs on appeal. McIntyre, J.;
We Concur: Haller, Acting P.J., O'Rourke, J.

D040183 Rohner et al., v. Augusta

Appellant has failed to file a brief after notice given pursuant to California Rules of Court, Rule 17(a).
The appeal is dismissed.

D046557 Griffin et al. v. Golden Eagle Insurance Corporation

The appeal is dismissed as untimely.

D042800 Galinski v. Johnson

D043164 Johnson v. Superior Court of San Diego County/Galinski

(Consolidated) The petition for rehearing is denied.

D043939 People v. Avila

The judgment is affirmed. McIntyre, J.; We Concur: Huffman, Acting P.J., Mc Donald, J.

D045602 In re Claudia S., a Juvenile

All orders issued after the detention hearing are reversed and the matter is remanded to the juvenile court with directions to conduct a new jurisdiction hearing based on present circumstances. CERTIFIED FOR PUBLICATION. McIntyre, J.; We Concur: Haller, Acting P.J., McDonald, J.

D044588 People v. Morehouse

The judgment is affirmed. McIntyre, J.; We Concur: Huffman, Acting P.J., O'Rourke, J.

D045400 People v. Ortiz

The judgment is reversed and the matter is remanded. O'Rourke, J.; We Concur: Benke, Acting P.J., Haller, J.

D046608 In re Hurd on Habeas Corpus

The petition is denied.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
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DIVISION ONE
July 21, 2005 (Continued)

D045806 In re Brittany H., a Juvenile

The order declaring Brittany a ward and the disposition order are affirmed. O'Rourke, J.;
We Concur: Benke, Acting P.J., Nares, J.

D044797 Woods v. Havird

Upon written request filed by appellant, the appeal is dismissed. In accordance with the attached
settlement agreement the parties shall bear their own costs.

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DIVISION ONE
July 22, 2005

D044492 Ghosn v. Ghosn

Judgment affirmed. Appellant to pay respondent's costs on appeal. Haller, Acting P.J.;
We Concur: McIntyre, J., O'Rourke, J.

**D046642 Ofelia H. v. Superior Court of San Diego County/San Diego County Health and
Human Services Agency**

Counsel for petitioner Ofelia H. has notified the court on behalf of the petitioner that counsel will not file a petition for writ of mandate under California Rules of Court, Rule 38.1 because there are no viable issues. Petitioner has filed a petition on her own behalf. That petition is inadequate in that it does not state why the challenged order was erroneous (item number 5 of the petition), attach supporting documents or state exigent circumstances excusing attachment (item number 6 of the petition), summarize the factual bases for the petition with references to the record (item number 7 of the petition), and provide supporting points and authorities (item number 8 of the petition). On the court's own motion, petitioner is granted 10 days from the date of this order to file an amended petition complying with Rule 38.1. Failure to file a properly amended petition within the time specified will be deemed a waiver of the right to file a petition and will result in the dismissal of this case. Any amended petition filed after the 10 days will also be dismissed. The clerk of this court is directed to copy and mail to Petitioner IMMEDIATELY a copy of the record in this case and along with copies of this court's order of July 5, 2005; Rule 38.1; and form JV-825 and to mail a copy of this order to attorneys Richard Siref and Vince Garcia.

**D046185 Vanessa M. et al. v. Superior Court of San Diego County/San Diego County Health
and Human Services Agency**

Counsel for Petitioner Ernest M. notified the court on behalf of Petitioner that there are no viable issues for a writ petition under California Rules of Court, rule 38.1. Petitioner filed a petition in propria persona; the clerk of this court mailed a copy of that petition to counsel; this court granted Petitioner extensions of time to file a corrected petition; and the clerk mailed Petitioner copies of form JV-825 and Rule 38.1. No corrected petition has been filed within the time allowed by this court's orders of June 17, and July 8, 2005. The court has received a letter from Petitioner, date July 14, 2005, asking for instruction as to how to correct the petition. The court is precluded from providing further instruction. The clerk is directed to mail a copy of Petitioner's letter to counsel. The case is dismissed.

D046256 In re Lonnie H., a Juvenile

Upon filing an abandonment of appeal, personally signed by the defendant, the appeal is dismissed and the remittitur is ordered to issue immediately (Cal. Rules of Court, rule 30.3).

D043723 Annette F. v. Sharon S.

The petition for rehearing is denied.

D045878 In re Wyatt W. C., A Juvenile

The jurisdiction and disposition orders are affirmed. Huffman, J.; We Concur: McConnell, P.J., Irion, J.

D045466 In re Brandon L., a Juvenile

Judgment affirmed. McDonald, J.; We Concur: Huffman, Acting P.J., Haller, J.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
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July 22, 2005 (Continued)

D046722 **Malone v. The Superior Court of San Diego County/People**
The petition is denied.